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By ECF

May 11, 2022

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York and I am among counsel for the defense in the above-referenced matter. I write in response to plaintiffs' letter to the Court dated May 2, 2022, (Dkt. No. 527) pertaining to ARGUS videos.

As an initial matter, the undersigned was recently assigned to determine the status of ARGUS video footage requested in these consolidated cases. The undersigned was not present for the meet and confers referenced in plaintiffs' letter to the Court on this issue and therefore cannot speak to the outcomes of those meet and confers. However, as stated by plaintiffs, the Court granted defendants an extension to April 15, 2022, to produce all documents. (Dkt. Nos. 453, 462). Unfortunately, the ARGUS videos were not produced by that date, and we apologize to the Court and the parties for not requesting an additional extension or providing an update. Notwithstanding, we have been diligently working on getting this information. To that end, defendants will explain herein why the ARGUS videos were not produced by the deadline, provide the current status, and provide a date certain when plaintiffs can expect to receive the videos. To complete this task, the undersigned conferred with members of the NYPD Legal Bureau to obtain information gathered from the Lower Manhattan Security Initiative ("LMSI"), the NYPD Information and Technology Bureau ("ITB"), and the vendor, Genetec.

By way of background, the ARGUS camera system is part of the CCTV system used by the NYPD throughout the five boroughs. The ARGUS camera system is installed at approximately 1,744 locations in the City. There are approximately 3,510 ARGUS cameras throughout the five boroughs. *See* Lt. Joseph Klubnick Declaration ¶¶ 7-8 (Dkt. No. 527-1). The NYPD Legal Bureau has confirmed that ARGUS video footage is stored for a period of only 30 days after which the video is overwritten, and due to this fact, on June 6, 2020, the Legal Bureau submitted a request to preserve ARGUS system camera footage at specified locations where protests were occurring throughout the City for the period May 28, 2020, through June 8, 2020.¹ In their letter to the Court, plaintiffs state that they sent a letter to defendants on January 14, 2022, concerning a failure to produce ARGUS video to which Ms. Weiss responded via e-mail dated February 8, 2022, confirming that maps of ARGUS locations sent by plaintiffs were forwarded to LMSI. This date coincides with dates that the LMSI received the maps and coincides with issues that the vendor experienced in exporting the ARGUS video beginning in February 2022.

1. Exporting ARGUS Video—One Video at a Time.

As explained by NYPD Legal, the ARGUS system, and for that matter the Aviation system, is such that only one video at a time can be downloaded by one person. Each ARGUS camera is approximately 15 to 20 gigabytes, which resulted in hundreds, if not thousands of hours of video to be exported. Further, this is a manual process which needs to be monitored by that one person in order to keep one video/camera at a time exporting, and then the next video/camera has to be manually queued up for export. There is no automatic queueing system, and thus, the video has to be monitored at all times to prevent the computer from going to sleep causing the export of any given video to clear. As a result, this has been an extremely complicated, time consuming and tedious process which could be done by only one person. Add to that the further complication of trying to match cameras to cameras within the areas, dates and times that plaintiffs requested footage for, and this was essentially a Herculean effort. This is the first time ever that LMSI has been tasked with a project on this massive scale. It is simply the largest task that LMSI has ever undertaken; nothing approaching this scale has been done before.

2. Problems Encountered in Exporting the ARGUS Videos.

First, the “one video at a time” explanation from the vendor meant that the Aviation footage project and the ARGUS project for these cases could not be done concurrently, because all the archived/preserved footage is stored on the same location and platform. Exportation of the Aviation footage was completed on January 21, 2022, and was produced to plaintiffs on January 22, 2022.

¹ At that time, the NYPD Legal Bureau could have no way of knowing the tremendous amount of protests that would occur or the vast number of places where protests would take place throughout the City. Nor could the Legal Bureau have any way of knowing that there would be future lawsuits defining the protest period as May 28, 2020, through January 18, 2021.

Second, almost as soon as the ARGUS project began on February 8, 2022, LMSI encountered problems exporting the videos. According to the vendor, the ARGUS videos are stored on numerous servers, and all of the servers were not communicating. This problem took time to be identified, and it took time to find a solution. A solution was provided by the vendor on February 23, 2022, which required the development of a patch. Before anything can be installed on an NYPD computer or system, in this case the patch, it has to be approved by ITB through a process called change management in order to ensure that nothing put on the system causes breaches or other security risks to the entire system. On March 2, 2022, the patch was approved by ITB and installation began thereafter. This issue was resolved. The same issue arose again as reported on March 31, 2022. The vendor investigated, and this problem was eventually fixed but again had to go through the ITB change management system for approval. On April 11, 2022, the vendor received the list of cameras within the areas that plaintiffs requested and spreadsheets were created in order to calculate the amount of time the project would take. On April 29, 2022, it was reported that 760 hours of ARGUS footage had been exported. Another problem arose, a solution was arrived at requiring ITB approval, which was given on May 4, 2022, and exporting the videos is continuing.

3. Current Status of ARGUS Videos.

The NYPD Legal Bureau has confirmed that the ARGUS videos will be fully exported and provided to the Law Department by Friday, May 20, 2022, barring other issues like the ones described above. The Law Department's E-discovery team will copy the approximately two terabytes of video and have it ready for production to the plaintiffs on Friday, May 27, 2022, if not earlier.

Again, defendants apologize for missing the April 15, 2022, deadline to produce ARGUS videos and for not keeping plaintiffs and the Court informed as to the process and progress of obtaining the videos. Defendants respectfully submit that there was no deliberate intent not to comply with the April 15, 2022, deadline.

In light of the above, defendants respectfully request that the Court deny plaintiffs' application for sanctions.

Thank you for your consideration herein.

Respectfully submitted,

Amy Robinson s/

Amy Robinson

Senior Counsel

Special Federal Litigation Division

cc: To All Plaintiffs' Counsel via ECF